

Internal Revenue Service

Department of the Treasury

District
Director

Delaware-Maryland District

31 Hopkins Plaza, Baltimore, MD 21201

MAY 18 1998

PERSON TO CONTACT:

CONTACT TELEPHONE NUMBER:

IN REPLY TO:

CERTIFIED MAIL

Dear Applicant:

We have considered your application for recognition of exemption from Federal income tax as an organization described in section 501(c)(3) of the Internal Revenue Code.

Evidence submitted revealed that you incorporated in [REDACTED] for the following purposes: child care, education, human and social services.

An attachment to Form 1023 indicates your activities will be a Center-based Child Care Program, an After School Program, a Summer Camp Program, a Professional Home-based Child Care Program, a Reading/Tutoring Program, a Baby-sitters Program, a Resource Information/Referral Center, a free Furniture, Clothes and Toy Exchange Program, a Food Program, an Employment Program, A Housing/Homeless Program, a College Internship Program, an Inter-Generational Program and you anticipate operating a school.

Your income will be derived from day care fees (center, home and baby-sitters), tutoring, contributions, fund-raising and through a professional fund-raiser, in which the organization will receive between [REDACTED] percent of the sales.

Expenditures are projected for salaries and operations.

The organization is controlled by [REDACTED] President and [REDACTED] Treasury.

A description of the planned activities revealed that operations are contingent upon acquiring a building, such as, the center child care, after care, summer camp, home child care, baby-sitters program, reading/tutoring program, resource/referral services, exchange program, food program, employment program, housing/homeless program and internship program. It is also contingent upon exemption.

The center-based child care, home based child care and baby-sitters programs will be operated 24 hours a day, 7 days a week and 365 days a year.

Section 501(c)(3) of the Code provides for exemption from Federal income tax for organizations organized and operated exclusively for charitable, educational, religious, or scientific purpose, no part of the net earnings of which inures to the benefit of any private shareholder or individual.

Section 501(c)(3)-1(c)(1) of the Regulations states that an organization is operated exclusively for the purposes set out in section 501(c)(3) of the Code only if substantially all of its activities are in furtherance of these purposes.

Section 1.501(c)(3)-1(a)(1) of the Income Tax Regulations provides that in order to qualify for exemption under section 501(c)(3), an organization must be both organized and operated exclusively for one or more exempt purposes. Failure to meet either the organizational or operational test will disqualify an organization from exemption under section 501(c)(3).

Section 1.501(c)(3)-1(b)(1) of the Income Tax Regulations specifies that an organization is organized for one or more exempt purposes, if its Articles of Incorporation limit the purposes of such organization to exempt purposes.

Section 1.501(c)(3)-1(b)(4) of the Regulations provides that an organization is not organized exclusively for one or more exempt purposes unless its assets are dedicated to an exempt purpose. An organization's assets will be considered dedicated to an exempt purpose if, upon dissolution, such assets would, by reason of a provision in the organization's articles or by operation of law, be distributed for one or more exempt purposes, or to the Federal government, or to a State or local government, for a public purpose.

Section 1.501(c)(3)-1(c)(1) of the Regulations provides that an organization will be regarded as "operated exclusively" for one or more exempt purposes only if it engages primarily in activities which accomplish such purposes. An organization will not be so regarded if more than an insubstantial part of its activities is not in furtherance of an exempt purpose. Thus, in construing the meaning of the phrase "exclusively for educational purposes" in *Better Business Bureau v. United States*, 326 U.S. 279 (1945), the Supreme Court of the United States stated: "This plainly means that the presence of a single non-educational purpose, if substantial in nature, will destroy the exemption regardless of the relative or importance of truly educational purposes."

[REDACTED]

On the authority of the above Revenue Procedure, it is held that a record of your actual operations will be required before a ruling or determination will be issued.

After you have operated for a period of time sufficient to permit a conclusion that your operations will clearly fall within the scope of section 501(c)(3) of the Internal Revenue Code and a reconsideration of your exempt status is desired, a new application for exemption may be filed.

Contributions to your organization are not deductible by donors under section 170(c)(2) of the Code.

In accordance with the provisions of section 6104(c) of the Code, a copy of this letter will be sent to the appropriate State officials.

If you do not agree with our determination, you may request consideration of this matter by the Office of Regional Director of Appeals. To do this, you should file a written appeal as explained in the enclosed Publication 892. Your appeal should give the facts, law, and any other information to support your position. If you want a hearing, please request it when you file your appeal and you will be contacted to arrange a date. The hearing may be held at the regional office, or, if you request, at any mutually convenient district office. If you will be represented by someone who is not one of your principal officers, that person will need to file a power of attorney or tax information authorization with us.

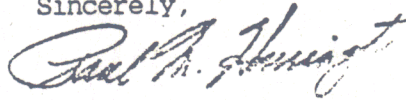
If you don't appeal this determination within 30 days from the date of this letter, as explained in Publication 892, this letter will become our final determination in this matter. Further, if you do not appeal this determination in a timely manner, it will be considered by the Internal Revenue Service as a failure to exhaust administrative remedies. Section 7428(b)(2) of the Code provides, in part, that "A declaratory judgment or decree under this section shall not be issued in any proceeding unless the Tax Court, the Claims Court, or the district court of the United States for the District of Columbia determines that the organization involved has exhausted administrative remedies available to it within the Internal Revenue Service."

[REDACTED]

Appeals submitted which do not contain all the documentation required by Publication 892 will be returned for completion.

If you have any questions, please contact the person whose name and telephone phone number are shown in the heading of this letter.

Sincerely,



Paul M. Harrington
District Director

Enclosure: Publication 892

cc: State Attorney General [REDACTED]